IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.18757 of 2006

Date of Decision: 28.11.2006

Daya Singh .....Petitioner

Versus

State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Gurnam Singh, Advocate
for the petitioner.

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S. D. ANAND, J.

This petition suffers from inordinate delay and laches. The claim raised by the petitioner pertains to his wages for the period 1.1.1996 to 12.11.1999. The present Writ Petition was filed on 25.11.2006. Apart therefrom, as per the own averment of the petitioner, he had filed a Civil Suit on 12.10.1998 in the Court of Additional Civil Judge (Senior Division), Rajpura for a declaration that he was entitled to salary and other allowances w.e.f. 1.1.1996 till date. That suit was dismissed as withdrawn by that Court, vide order dated 8.11.2006 (Annexure P7). Annexure P6 is copy of the application which the petitioner had filed for the leave of the Court to withdraw that suit with liberty to file a Writ Petition before this Court. While dismissing the Civil Suit aforementioned on the basis of the statement suffered by the petitioner, the petitioner was not granted any

liberty to file another cause and, in fact, the Civil Court would not have been competent to grant liberty to the petitioner to file a Civil Writ Petition before this Court. There is nothing on the record to indicate the date on which that Civil Suit had been filed. Annexures P6 and P7 purport to be true copies of the application to withdraw the suit and the order dated 8.11.2006 respectively of the Civil Judge (Junior Division), Rajpura. These do not give any indication of the date of filing of the suit. Apart thereform, the grievance made by the petitioner qua the non-grant of extension (of employment) to him from 1.11.1996 to 31.10.1998 is also mis-conceived, inasmuch as the recommendation aforesaid had been made by the Block Development & Panchayat Officer, Dera Bassi (Patiala) to the Director, Village Development & Panchayat Department, Punjab, Chandigarh in the year 1996. The grievance with regard to the grant of non-action on the part of the addressed quarters having been made after a period of about 10 years cannot be said to be competent, for the reasons of being open to the vice of delay and laches.

We are not inclined to entertain this petition, in exercise of our jurisdiction under Article 226 of the Constitution of India, on account of the inordinate delay and laches in the filing of the petition which (petition) is thoroughly mis-conceived, particularly when it raises a question of fact. It may be noticed, in the context, that the averment made by the petitioner is that the respondents forcibly relieved him on 12.11.1999. It would not be possible for this Court to adjudicate upon a question of fact. Apart therefrom, it is the own plea of the petitioner that he had already filed a Civil Suit in the Court of Civil Judge (Senior Division), Rajpura on 12.10.1988 before the respondent-authorities forcibly relieved him on

12.11.1999. As a civil cause instituted by the petitioner was already pending adjudication before the Civil Court, the petitioner ought to have applied for the grant of the relevant consequential relief as well in that very matter.

In the light of foregoing discussion, this petition is held to be thoroughly mis-conceived. The petitioner has endeavoured, abortively though, to misuse the process of the Court in raising a plainly time barred claim. The petition shall stand dismissed accordingly with costs of Rs.5,000/- which shall be deposited by the petitioner with the Legal Services Authority of this Court within one month from today. A receipt in the relevant behalf, shall be deposited by the petitioner with the Registry. If the needful is not done within the above indicated period, the main petition shall be listed before this Court for further orders.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

November 28, 2006
SRM